

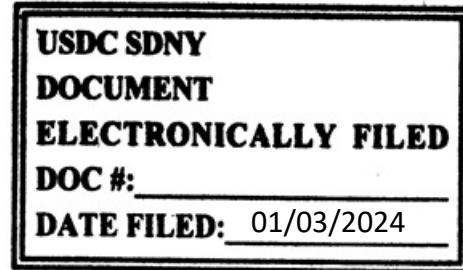
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Via ECF

January 2, 2024

Judge Stewart D. Aaron, U.S.D.M.J.
United States District Court, S.D.N.Y.
500 Pearl Street, Room 1970
New York, New York 10007



Re: Sherr v. Board of Elections in the City of New York
Case No. 1:23-cv-08693-JLR-SDA

Dear Judge Aaron:

We represent Defendant Board of Elections in the City of New York (the “City” or “Defendant”) in the above-referenced matter. We write jointly with Plaintiff, pursuant to the Court’s Order on December 20, 2023 (DKT. 25), requiring the Parties to propose a briefing schedule for the motions currently pending before the Court. The Parties propose the following briefing schedule in connection with Defendant’s motion to dismiss:

- Plaintiff’s response due January 10, 2024
- Defendant’s reply due January 24, 2024

Defendant agrees to conditional certification of a collective action, if the action is not dismissed, and reserving the issue of the content of the notice. The Parties propose to postpone further briefing of the pending motion to conditionally certify a collective action while they, notwithstanding the motion to dismiss, promptly begin to negotiate a jointly proposed collective action notice and, if they cannot agree, then jointly propose a further briefing schedule for the defendant’s response and Plaintiff’s reply to the pending motion on the remaining issue of the content of the notice. Defendant agrees to provide Plaintiff with the contact information for the putative party plaintiffs (similarly situated as asserted in the Plaintiff’s motion any time after October 12, 2020, and without prejudice to Defendant’s affirmative defense of statute of limitations) within 21 days after an order denying the motion to dismiss, if applicable, such that the notice can be mailed.

Finally, to avoid prejudice to the putative party plaintiffs, Defendant has agreed to toll the statute of limitations for all putative party plaintiffs from December 15, 2023 (the day Defendant’s motion to dismiss was filed) through the date of the Court’s order on the motion to dismiss, without prejudice to Plaintiff’s assertion of a more expansive equitable tolling by later motion or at trial, and Defendant’s defense against such assertion.

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Hon. Judge Stewart Aaron, U.S.D.M.J.
United States District Court
Southern District of New York
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We thank the Court for its attention to this matter.

Respectfully submitted,

JACKSON LEWIS, P.C.

/s Adam S. Gross

Adam Gross

cc: Counsel of Record via ECF

4865-5488-3738, v. 1

ENDORSEMENT: The Court hereby approves the briefing schedule proposed by the parties with respect to Defendant's pending motion to dismiss (ECF No. 21). No later than 1/10/2024, Plaintiff shall file his response to the motion. No later than 1/24/2024, Defendant shall file any reply.

The Court hereby grants in part on consent Plaintiff's motion for an order conditionally certifying a collective action (ECF No. 5), subject to Defendant's position that the action should be dismissed. If the parties are unable to agree upon the content of the notice by 1/31/2024, then on that date they shall file a joint letter not to exceed 10 pages setting forth their areas of disagreement.

SO ORDERED.

Dated: 01/03/2024

